

## ARGUMENT

### **THE COMMISSION SHOULD GRANT BELLSOUTH'S REQUEST**

#### **1. BELLSOUTH HAS MET THE COMMISSION'S REQUIREMENTS FOR AN EXTENSION OF TIME IN WHICH TO IMPLEMENT A LONG-TERM DATABASE METHOD OF NUMBER PORTABILITY WITHIN ITS NETWORK IN THE SOUTHEAST NPAC REGION**

##### **A. BellSouth's Request is Timely**

The first relevant LNP implementation deadline is March 31, 1998 for Phase I MSAs.<sup>20</sup>

The deadline for filing a petition to extend the time by which to implement LNP in Phase I MSAs is March 1, 1998.<sup>21</sup> This petition is being filed March 2, 1998, consistent with the Commission's rules.<sup>22</sup> Moreover, Southeast LLC, NANC, and the Commission have been kept apprised of the progress of LNP implementation in the Southeast region, specifically with regard to the former LNPA's failure to timely deliver a regional NPAC SMS database, which is the primary factual basis for this petition.<sup>23</sup> BellSouth has kept the Commission and the industry

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<sup>20</sup> *First Order on Reconsideration at ¶ 78.*

<sup>21</sup> *Phase I Implementation Order at ¶ 9.*

<sup>22</sup> The filing date of March 1, 1998 is a Sunday, defined as a "holiday" under the Commission's rules. 47 C.F.R. § 1.4(e)(1). When a filing date falls on a holiday, the document "shall be filed on the next business day." 47 C.F.R. § 1.4(j). Thus, the appropriate filing date is March 2, 1998.

<sup>23</sup> See LLC Letter; Ex Parte Letter from Ben Almond, Executive Director Federal Regulatory, BellSouth, to Magalie R. Salas, Secretary, FCC, dated January 6, 1998; Ex Parte Letter from Ben Almond, Executive Director Federal Regulatory, BellSouth, to Magalie R. Salas, Secretary, FCC, dated January 16, 1998. The LNPA Working Group has provided reports to NANC at each of NANC's meetings reflecting LNP implementation progress.

fully apprised of this eventuality even as it undertook every effort to meet the Commission's original deadlines.<sup>24</sup>

**B. BellSouth's Request is Supported by Substantial Credible Evidence**

The five factual elements that must be shown in a request for extension of time are set forth below. These facts are supported by written affidavits of the BellSouth individuals with direct knowledge of them. Moreover, other LECs within NPAC Regions 1, 2 and 4 will be requesting extensions for the same underlying reason: the failure of the former LNPA and its subcontractor to provide a stable software and hardware platform for the NPACs' regional databases.<sup>25</sup> Such corroborating circumstances, together with the facts presented herein that are supported by affidavit, constitute substantial, credible evidence as required under by the Commission's rule.

***Element One: The Factual Basis for BellSouth's Contention That It Cannot Meet the Commission's Deployment Schedule - Vendor Failure in NPAC Delivery - Impacts of Recent Change in NPAC Vendors***

The regional NPAC SMS database is the *sine qua non* of LNP from a legal, regulatory and practical standpoint. There is today no NPAC SMS for Region 4.<sup>26</sup> Without the NPAC SMS database, it is not technically feasible to provide LNP.<sup>27</sup>

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<sup>24</sup> *Common Carrier Bureau Seeks Comments on the NANC Recommendation to Delay Filing of 47 C.F.R. § 52.3(e) Waiver Requests by Individual Carriers for Local Number Portability Phase I Implementation*, Public Notice, DA 98-109, CC Docket 95-116. Comments of BellSouth Corporation (January 26, 1998) *passim*.

<sup>25</sup> LLC Letter at 3.

<sup>26</sup> *Id.*

<sup>27</sup> *See Clarks Communications Co., et al, Petitions for Waiver of the Four-Digit Carrier Identification Code (CIC) Implementation Schedule*, NSD File Nos. 97-53, 97-56, 97-46, 97-51, 97-54, 97-55, 97-47, 97-48, 97-49, 97-50, Order, DA 97-2528 (December 3, 1997) (*First CIC (Continued...)*)

The Communications Act defines number portability as the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another.<sup>28</sup> The Act further imposes the duty on all LECs to provide number portability, to the extent technically feasible, in accordance with requirements prescribed by the Commission.<sup>29</sup> The Commission has determined an LNP architecture that uses regionally-deployed databases (the NPAC SMS) best serves the public interest, and has codified this determination in its rules.<sup>30</sup> Representatives from a broad spectrum of the telecommunications industry, including the former Region 4 LNPA originally responsible for timely delivery of the NPAC SMS database, developed NPAC Functional Requirements Specification ("FRS"), Provisioning Process Flows, and Interoperable Interface Specification, which requirements have been adopted by the Commission as rules.<sup>31</sup>

The undelivered Region 4 NPAC SMS is the regional database required by the Commission's rules to ensure Congress's mandate that there be no impairment of quality, reliability or convenience when end-users keep their telephone numbers even though they change service providers as long as they remain at the same location. As the Commission has explained:

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*Waiver Order*) at ¶¶ 16, 17 (Where product needed to accomplish upgrade to individual LEC networks is not readily available from switch manufacturer and delays LEC's ability to meet four-digit CIC conversion deadline, special circumstances meriting waiver of conversion deadline is demonstrated).

<sup>28</sup> 47 U.S.C. § 153(30).

<sup>29</sup> 47 U.S.C. § 251(b)(2).

<sup>30</sup> *First Report and Order* at ¶ 91; 47 C.F.R. §§ 52.25, 52.26.

<sup>31</sup> *Second Report and Order* at ¶¶ 51-64, 47 C.F.R. § 52.26.

The Number Portability Administration Center Service Management System is a hardware and software platform that contains the database of information *required* to route ported numbers to the appropriate service provider. In general, the Number Portability Administration Center Service Management System receives customer information from both the current and new service providers, validates the information received, and makes the new routing information available for downloads to local service management systems when an “activate” message is received indicating that the customer has been physically connected to the new service provider’s network. The Number Portability Administration Center Service Management System contains a record of all ported numbers and a history file of all transactions relating to the porting of a number. The Number Portability Administration Center Service Management System also provides audit functionality and the ability to transmit routing information to service providers to maintain synchronization of the service providers’ network elements that support portability.<sup>32</sup>

Without the Region 4 NPAC SMS database, the provision of LNP is not technically feasible because the NPAC SMS database is the controlling intelligence, the “brain” that houses and controls the information on ported numbers and communicates with all of the participating carriers’ routing databases.<sup>33</sup> Without the NPAC SMS database, there can be no synchronization among carriers’ routing databases, and no location for common, required data. Without the NPAC SMS database, there can be no intercompany testing which must precede commercial LNP availability in the affected MSAs.<sup>34</sup>

The former Region 4 LNPA was alone responsible for the current lack of an NPAC SMS database for the Southeast Region.<sup>35</sup> The former LNPA did not deliver an NPAC SMS database which would have permitted LNP implementation in compliance with the Commission’s

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<sup>32</sup> *Second Report and Order* ¶ 60 (emphasis added, footnotes omitted).

<sup>33</sup> See Exhibit B (attached).

<sup>34</sup> LLC Letter at 3.

<sup>35</sup> *Id* at 6.

implementation schedule. While the Southeast LLC has throughout the past months worked closely with the LNPA on its NPAC project plan, the former LNPA slipped the original date, a subsequent revised delivery date in mid-December, and then informed the Southeast LLC that NPAC SMS database delivery was not to be expected until July 6, 1998.<sup>36</sup> On February 10, 1998, the Southeast LLC terminated its contract with the former LNPA and entered into a contract with a new LNPA.<sup>37</sup> The new LNPA will not deliver a functional NPAC SMS database until well after the implementation deadline for Phase I and shortly before the deadline for implementing Phase II, thereby affecting the orderly phase of implementation of all phases according to the Commission's original schedule. Accordingly, BellSouth is unable to implement LNP within its network in the Southeast Region according to the Commission's mandate.

Moreover, the transition from the former LNPA to the new LNPA has impacts on BellSouth's ability to meet the Commission's original deployment schedule. The former LNPA, Perot Systems, had contracted to deliver an NPAC built to NANC specification 1.1. Consequently, BellSouth's LNP Gateway Operations Systems and its Advanced Intelligent Network Service Management System database were built to NANC 1.1 specifications so that BellSouth could timely implement LNP in accordance with the Commission's original deployment schedule. McDougal Affidavit at ¶ 4. Until February 10, 1998, when the Southeast LLC formally terminated its contract with Perot Systems, BellSouth was continuing its plan to

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<sup>36</sup> See LLC Letter, *passim*.

<sup>37</sup> Letter from Pamela Connell, President, Southeast Number Portability Administration Company, L.L.C. to John Bavis, Perot Systems Corporation (February 10, 1998).

deploy LNP with the assumption that Perot Systems would deliver, at some point, an NPAC SMS database built to NANC 1.1. After February 10, 1998, BellSouth engaged in immediate discussions with the new LNPA, Lockheed Martin, to analyze the specifications of the Lockheed Martin NPAC SMS and the scope of work required to reengineer BellSouth's previously built systems so that they could work with the new NPAC SMS.

These discussions concluded on February 20, 1998, and it was determined that Lockheed Martin has built its NPAC SMS to NANC specification 1.8, a full seven software releases beyond the functionality of the Southeast Region's previous LNPA and beyond the functionality of the BellSouth LNP Gateway LSMS and the BellSouth AIN SMS. McDougal Affidavit at ¶ 5. As a consequence of the original LNPA's specification of an NPAC database built to NANC 1.1, the failure of the original LNPA to deliver the database, the Southeast LLC's subsequent substitution of a new LNPA as a result of the original LNPA's delivery failure, and the fact that the new LNPA will be providing an NPAC SMS database built to a different specification, BellSouth must write detailed software requirements reflecting the upgrades from seven software releases, develop the software and perform extensive network integrity and reliability testing on two very complex operations systems. McDougal Affidavit at ¶ 5. Further, all of this work must be completed before NPAC certification can be completed, which is a prerequisite for initiating Phase I of long term number portability. McDougal Affidavit at ¶ 5.

A minimum of thirty-five (35) weeks is required to perform the systems engineering, software development and testing activities required to perform these changes. McDougal Affidavit, timeline. BellSouth has already begun the work required, and will be arduously working on these functions even as the Commission considers this petition. McDougal Affidavit

at ¶ 6. But the scope of this work means that, as a practical matter, BellSouth cannot be ready to certify its new systems software and interfaces to the Lockheed Martin NPAC SMS database if it is delivered on May 11, 1998, because BellSouth will, at that point, be halfway through its reengineering efforts occasioned by the change in LNPAs and regional NPAC SMS database specifications.

The May 11, 1998 current projected NPAC SMS delivery date is beyond the March 31, 1998, deadline for implementing LNP in Phase I MSAs. It is only four days prior to the deadline for implementing LNP in Phase II MSAs, and thus leaves only four days for inter-company end-to-end testing, when at least thirty full days of such testing is necessary. Thus, it is simply not technically feasible to implement LNP in Phase I and Phase II MSAs according to the Commission's original deployment schedule. BellSouth is not in a position to complete its reengineering to the specifications of the new LNPA's database until after the June 30, 1998, deadline for implementing Phase III MSAs. Assuming BellSouth completes these efforts by the end of August 1998, and is able to certify with the Lockheed NPAC SMS on September 1, the requirements of end-to-end testing mean that porting can begin in the Phase I MSAs in the Southeast Region on October 1, 1998, the day after the Commission's current deadline to implement Phase IV MSAs. It is neither technically feasible, nor prudent from a network reliability standpoint, to attempt to implement all 21 MSAs in the Southeast Region in all five Phases in a 90 day region wide "flashcut" in order to meet the Commission's current December 31, 1998 deadline for Phase V MSAs.

Nonetheless, BellSouth proposes in this Petition a deployment plan that will allow BellSouth to reengineer its LNP operational systems to the new LNPA's NPAC SMS

specifications and to implement LNP within the Southeast Region by adding only one calendar quarter to the FCC's original completion date of December 31, 1998. Specifically, as a result of BellSouth's current state of operational readiness for the former LNPA's NPAC SMS database, its ongoing work plan to deploy LNP in accordance with the Commission's original schedule, and its reengineering efforts to conform its operational systems to the new NPAC SMS database, BellSouth herein proposes to reduce the Commission's original 457 day implementation schedule (measured from October 1, 1997 to December 31, 1998)<sup>38</sup> to 182 days (measured from October 1, 1998 to March 31, 1999). As shown in the proposed milestones contained in this Petition, this reduction is achieved by compressing the implementation intervals in each Phase within the region anywhere from 66% to 75%.

BellSouth systems engineering groups have investigated whether there are more expeditious avenues for delivering certified LSMS functionality as opposed to our current internal development plan. McDougal Affidavit at ¶ 7. At this juncture, introducing a new platform into BellSouth's very highly integrated systems environment is extremely problematic. McDougal Affidavit at ¶ 7. In addition to the interface to the new NPAC SMS, the BellSouth Gateway LSMS interfaces to the previously mentioned AIN SMS, the Service Order Control System (SOCS), the Product and Services Information Management System (PSIMS) and the Customer Revenue Information Systems (CRIS). McDougal Affidavit at ¶ 7. These currently functioning systems interfaces were built through a significant investment of engineering and software development resources during 1996 and 1997. This integrated approach facilitates

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47 C.F.R. Pt. 52, app.



accurate information flow to and from the NPAC and expedites service order processing, number porting and end user billing. McDougal Affidavit at ¶ 7. No other product is as robust as that which BellSouth is building. McDougal Affidavit at ¶ 7. Further, BellSouth does not believe that the vendors of alternative products could possibly deliver the new interfaces to its legacy systems within the timeframe necessary to test and debug them by September 1, 1998.

McDougal Affidavit at ¶ 7.

***Element Two - BellSouth's Activities Undertaken to Meet the Commission's Implementation Schedule Prior to This Request - BellSouth Spent Substantial Human and Economic Resources to Develop Operational Systems to Function With the Former LNPA's NPAC SMS Specifications***

At the outset, BellSouth is a founding member of the Southeast LLC and, while not a member of the NANC, participated in the NANC number portability working groups and task forces that issued the recommendations eventually adopted by the FCC, and has participated in every stage of this docket's rulemaking process. BellSouth was active within the Southeast LLC in pursuing various options to obtain a commercially viable NPAC as quickly as possible. Thus, BellSouth has participated in LNP-related regulatory and industry processes to the fullest extent possible in a cooperative effort to ensure the implementation of LNP according to the Commission's deadlines.

Following the *First Report and Order*, and well before the beginning of the current Phase I implementation schedule, BellSouth undertook the following activities to implement LNP within its network pursuant to the Commission's schedule and in conjunction with the NPAC SMS to be provided by the LNPA originally selected by the Southeast LLC and subsequently confirmed by the FCC following NANC's recommendation:

1. **BellSouth Local Carrier Service Center ("LCSC")**

BellSouth developed and provisioned a training system to instruct LCSC service representatives<sup>39</sup> in how to process LEC requests for LNP. The details of this development and provisioning are set forth in the attached affidavit of Elizabeth G. Craig.

2. **BellSouth Information Technology Organization**

The BellSouth ITO established a Program Management Office during 1997 to oversee all activities required to implement LNP in BellSouth Operational Support Systems ("OSS"). The details of this ITO initiative are set forth in the attached affidavit of F. H. Hemdon, Jr.

3. **BellSouth LNP Automation Efforts**

The BellSouth LNP Automation Project is developing a mechanical means to process eligible LNP requests in a flow through manner. To this end, BellSouth purchased and installed server hardware for LNP development, testing and production, developed custom application software, and methods and procedures for new systems and impacted work centers. These activities are set forth on the attached affidavit of Allena Kendrick.

4. **LNP Network Implementation**

Network implementation of LNP requires switch vendor installation of switch generic software, LNP software, as well as switch processor hardware in switches where warranted by projected LNP query volume, new switch translations in order to activate the LNP software followed by internal testing of the translations, and LNP querying. The current status of

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<sup>39</sup> The BellSouth LCSC was established to handle BST's competitive local exchange carrier ("CLEC") customers' requests for local exchange service.

BellSouth LNP switch implementation activities in each MSA in the Southeast Region is set forth in the attached affidavits of Sherry Eatherly and Michael Donze. As of January 31, 1998, vendor installation is complete in 100% of Phase I switches (Atlanta), 99% of Phase II switches (Miami, Fort Lauderdale, Orlando and Tampa), 55% of Phase III switches (New Orleans, Charlotte, Greensboro, Nashville), 20% of Phase IV switches (Jacksonville, West Palm Beach, Louisville, Raleigh, Greenville, Memphis) and 5% of Phase V switches (Birmingham, Mobile, Baton Rouge, Charleston, Columbia, Knoxville). Donze Affidavit at ¶ 4. As of January 31, 1998, querying has been activated in 39% of all switches in the Atlanta MSA, and is on schedule to be activated according to the Commission's original implementation schedule in all 21 MSAs in the Southeast Region.<sup>40</sup> Eatherly Affidavit at ¶ 5.

BellSouth is currently installing Service Control Points (SCPs) to provide the LNP database required for querying during call processing according to the schedule set forth in the attached Eatherly affidavit. All required SCP pairs have been installed in Phase I, Phase II and Phase III MSAs; application software for the SCPs have been installed on 75% of all Phase I SCPs and 50% of all Phase II SCPs; BellSouth is on schedule to complete SCP hardware and software installation in all MSAs according to the Commission's original LNP implementation schedule. Eatherly Affidavit at ¶ 4.

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<sup>40</sup> As of January 31, 1998, in the Atlanta MSA, 33 switches were querying on nearly every intra-MSA call since December 16, 1997. On a typical business day prior to that point, 900,000 queries were being processed during the peak business hour, with 10 million queries being processed during the 24 hour period. Eatherly Affidavit at ¶ 5. Additional offices have been added since the beginning of February.

**5. Company End-to-End Testing Efforts**

BellSouth developed a project effort to implement centers systems and process to support LNP and LNP intra-company testing. The details of this effort, the completed milestones, and future plans are set forth on the attached affidavit of Nancy Smith. Between May 31 and October 31, 1997, thirteen specific project milestones were completed, with test results set out on the Smith Affidavit.

**6. LNP Gateway Application**

BellSouth's long-established and ongoing LNP Gateway Application project (Gateway LSMS) developed software to interface with the original NPAC SMS database. The details of the project and the completion dates are set forth in the attached affidavit of Allena Kendrick; of the ten major functional areas in the contract the majority were available prior to the start of the Phase I implementation period. all were completed prior to year-end 1997, while integration and interoperability testing of Phase I Functionality began May 1, 1997 and continues.

***Element Three: The Particular BellSouth Switches For Which An Extension is Requested Are Identified By State, MSA, Wire Center and CLLI***

Attached to the Donze Affidavit is a spreadsheet listing each particular switch identified by Common Language Location Identifier ("CLLI") code, wire center, MSA and state. The accuracy of these lists are attested and verified in the attached Affidavit of Michael Donze.

***Element Four: Based on Current Knowledge, BellSouth Will Complete LNP Deployment in Affected Switches Within 182 Days of Intercompany Testing***

In the *First Order on Reconsideration*, the Commission extended its original deadlines for completion of deployment of long-term number portability for Phases I and II because:

[W]e are now persuaded that initial implementation of this new number portability technology is likely to require more time than subsequent deployment once the technology has been thoroughly tested and used in a live environment.

For example, initial implementation of this new technology is likely to involve more extensive testing, and may require extra time to resolve any problems that may arise during the testing. It therefore is appropriate that Phase I be longer than subsequent phases in the schedule to allow carriers to take appropriate steps to safeguard network reliability.<sup>41</sup>

Nothing has occurred since the *First Order on Reconsideration* to alter the basic principle that phased implementation is the most rational approach to implementing number portability.

BellSouth recognizes, however, that in light of the delay in NPAC SMS delivery, the current implementation intervals will need to be compressed in order to implement LNP as quickly as possible. As set forth above, BellSouth has, and will continue, to deploy all network elements and operations necessary for LNP within its own network that are in its control pursuant to the Commission's original schedule. In BellSouth's case, however, the transition from the former LNPA to the new LNPA has created a condition in which BellSouth must perform a significant amount of upfront work in order to align its operational systems, previously built to the former LNPA's NPAC specifications, to the specifications of the new LNPA. McDougal Affidavit, ¶¶ 5, 6. The former LNPA's NPAC was built to NANC specification 1.1. The new LNPA's NPAC is built to NANC specification 1.8, a full seven software releases beyond the NPAC that was to have been delivered by the former LNPA. McDougal Affidavit at ¶ 5. Consequently, BellSouth must upgrade its LNP Gateway to NANC 1.8, as well as develop its AIN SMS to NANC 1.8. A minimum of thirty-five (35) weeks is required to perform the systems engineering, software development and testing activities required to perform these changes. McDougal Affidavit, timeline. BellSouth has begun the work required, and will be

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<sup>41</sup> *First Order on Reconsideration* at ¶ 78.

arduously working on these functions even as the Commission considers this petition.

McDougal Affidavit at ¶ 6.

The current LNPA has indicated that it can deliver a commercially acceptable NPAC SMS by May 11, 1998. BellSouth believes that by rigorous adherence to parallel process planning and commitment to overtime resources, it can complete the required systems engineering software development and testing activities necessitated by the transition to the new LNPA in time to certify the NPAC SMS on September 1, 1998. Following this certification, a period of 30 days of intercompany end-to-end testing is required in order to assure NPAC SMS and carrier SMS interoperability, as well as conformance with NANC recommended and FCC approved LNP performance criteria. At the end of the 30 day inter-carrier testing period, BellSouth proposes to implement number portability within the applicable MSAs in the Southeast region according to the Commission's original phased implementation sequence but at greatly reduced intervals. McDougal affidavit.

***Element Five: BellSouth's Proposed Schedule for Meeting the LNP Implementation Requirement, Together with Milestones***

BellSouth requests that the Commission extend the implementation period for all phases until March 31, 1999. This date was calculated in using September 1, 1998 as the earliest reasonable date for BellSouth to complete NPAC SMS post-delivery production ready sequencing. Based on current information, the revised deployment schedule in the Southeast Region would be modified as follows:

Phase I	Phase II	Phase III	Phase IV	Phase V
Orig.: 182 days	Orig.: 135 days	Orig.: 91 days	Orig.: 92 days	Orig.: 92 days
10/1/97-3/31/98	1/1/98-5/15/98	4/1/98-6/30/98	7/1/98-9/30/98	10/1/98-12/31/98
Now: 45 days	Now: 47 days	Now: 30 days	Now: 30 days	Now: 30 days
10/1/98-11/14/98	11/15/98-12/31/98	1/1/99-1/30/99	1/31/99-3/1/99	3/2/99-3/31/99
Atlanta	Miami Ft. Lauderdale Orlando Tampa	New Orleans Charlotte Greensboro Nashville	Memphis Louisville Jacksonville Raleigh W. Palm Beach Greenville	Birmingham Knoxville Baton Rouge Charleston Mobile Columbia

**Assumptions:**

- (1) February 20, 1998 - August 31, 1998 BellSouth incremental work effort to reengineer operational systems to new NPAC SMS specifications
- (2) NPAC SMS Delivery prior to September 1, 1998
- (3) September 1, 1998 Post-delivery production ready sequencing completed
- (4) September 1 - September 30, 1998 Inter-Company End-to-End Testing

The net effect, a 90 day extension in the overall implementation schedule, is reasonable considering the anticipated seven month delay in NPAC delivery and the large number of MSAs in Region 4,<sup>42</sup> and is well within the nine month period which the Chief of the Common Carrier Bureau may, on delegated authority of the Commission, waive or stay any of the dates of the implementation schedule as the Chief may determine is necessary in order to ensure the efficient

<sup>42</sup> By contrast, there are 10 MSAs in the Region 1 (Western) NPAC and 15 MSAs in the Region 2 (West Coast) NPAC.

development of number portability.<sup>43</sup> BellSouth further requests that there be a corresponding extension of time for requests for LNP outside the Phase I - V MSAs until April 1, 1999.

Currently, under the Commission's rules, such requests are authorized to begin on January 1, 1999, based on a Phase V final completion of LNP implementation on December 31, 1998. 47 C.F.R. § 52.23(c). BellSouth has prepared a list of milestones covering BellSouth operational systems reengineering, NPAC certification and subsequent LNP deployment. Exhibit C.

BellSouth will continue to provide monthly reports to the Southeast Region L.L.C., the NANC LNP Working Group and the FCC.

**2. BELLSOUTH HAS DEMONSTRATED THE NECESSITY OF A WAIVER OF CURRENT LNP IMPLEMENTATION DATES IN ORDER TO ENSURE THE EFFICIENT DEVELOPMENT OF NUMBER PORTABILITY**

Under Section 52.23(d) of the Commission's rules, the Chief of the Common Carrier Bureau may waive or stay any of the dates of the LNP implementation schedule as the Chief determines is necessary to ensure the efficient development of number portability for a period not to exceed 9 months.<sup>44</sup> The Commission has established a special process by which LECs may request an extension of time to implement LNP, and defined the standards under which such petitions may be granted by the Chief.<sup>45</sup> As shown above, BellSouth in this petition has

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<sup>43</sup> 47 C.F.R. § 52.23(d). Under BellSouth's proposed schedule, implementation of LNP in Phase I MSAs would be delayed by seven and a half months; Phase II MSAs by seven and a half months; Phase III MSAs by seven months; Phase IV MSAs by five months; and Phase V MSAs by three months. LNP implementation would be complete by March 31, 1999; the Chief has express delegated authority to waive or stay any of the dates in the implementation schedule no later than September 30, 1999. *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> 47 C.F.R. § 52.23(e).



submitted a timely request for extension that sets forth each of the five required elements supported by substantial credible evidence. Having done so, BellSouth has met its burden of demonstrating the necessity of a limited waiver of the current dates in the implementation schedule for the Southeast region in order to ensure the efficient development of number portability.<sup>46</sup>

In addition to satisfying its burden under the special procedures established by the Commission to obtain a limited waiver of the LNP implementation schedule, BellSouth has established good cause under the Commission's general standard for granting waivers of any of its rules. Under Section 1.3 of the Commission's rules, the Commission may exercise its discretion to waive a rule where there is "good cause" to do so.<sup>47</sup> The Commission has articulated, in its number portability rules, a general standard for waivers of the implementation schedule that satisfies the requirements of *WAIT Radio*<sup>48</sup> and *Northeast Cellular*,<sup>49</sup> and BellSouth has complied with those standards. Even without those standards, BellSouth has demonstrated the special circumstances meriting a waiver of the current dates in the LNP implementation schedule for the Southeast Region.

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<sup>46</sup> 47 C.F.R. § 52.23(d).

<sup>47</sup> 47 C.F.R. § 1.3, *Pennsylvania Public Utility Commission Petition for Expedited Waiver of 47 C.F.R. Section 52.19 For Area Code 412 Relief*, CC Docket No. 96-98, DA 97-675 (rel. April 4, 1997) ¶ 14.

<sup>48</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

<sup>49</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

The Bureau's recent *CIC Waiver Orders* are instructive.<sup>50</sup> In the *First CIC Waiver Order*, the Chief evaluated each petition for waiver of the implementation deadline for three digit to four digit carrier identification code (CIC) conversion weighing, among other factors, the LEC's diligence in upgrading its switches and the availability from manufacturers of products required to accomplish the upgrade.<sup>51</sup> BellSouth has provided with this petition, consistent with the special requirements of Section 52.23(e)(2), a detailed explanation of the activities that the carrier has undertaken to meet the implementation schedule prior to requesting an extension of time. BellSouth has demonstrated that it has completed non-NPAC SMS related LNP implementation efforts to achieve operational readiness to implement LNP in Phase I MSAs and Phase II MSAs pursuant to the Commission's schedule. See Kendrick, Donze, Eatherley, Smith and Craig Affidavits, attached. Moreover, BellSouth has begun an aggressive work effort to upgrade the operational support systems which it previously designed to meet the Perot Systems NPAC SMS specifications in order that these systems will operate with the Lockheed Martin NPAC SMS. McDougal Affidavit at ¶ 6. This effort demonstrates the requisite "diligence" in

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<sup>50</sup> *First CIC Waiver Order* at ¶ 17; *Cuba City Telephone Exchange Company, et al., Petitions for Waiver of the Four-Digit Carrier Identification Code (CIC) Implementation Schedule*, NSD File Nos. 97-52, 97-58, 97-57, 97-62, 97-61, Order, DA 97-2614 (December 14, 1997) (*Second CIC Waiver Order*); *Roosevelt County Rural Telephone Cooperative, Inc., et al., Petitions for Waiver of the Four-Digit Carrier Identification Code (CIC) Implementation Schedule*, NSD File Nos. 97-74, 97-63, 97-78, 97-75, 97-66, 97-67, 97-65, 97-68, 97-73, 97-70, 97-72, 97-76, 97-64, 97-71, 97-69, Order, DA 97-2691 (December 24, 1997) (*Third CIC Waiver Order*); *Frontier Communications of Lakeshore, Inc., et al., Petitions for Waiver of the Four-Digit Carrier Identification Code (CIC) Implementation Schedule*, NSD File Nos. 97-80, 97-81, 97-82, 97-83, 97-84, 97-86, Order DA 97-2717 (December 31, 1997) (*Fourth CIC Waiver Order*); *MoKan Dial, Inc., Petitions for Waiver of the Four-Digit Carrier Identification Code (CIC) Implementation Schedule*, NSD File No. 97-87, Order DA 98-29 (January 8, 1998) (*MoKan CIC Waiver Order*) (collectively *CIC Waiver Orders*).

implementing the changes required in BellSouth's network in order to implement LNP. But for the failure of the LNPA to provide a stable regional NPAC SMS database as of the date of this petition, BellSouth would not have been constrained to seek a waiver of the current implementation dates.

Second, it cannot be disputed that the regional NPAC SMS database is the keystone of the Commission's LNP architecture, and that the regional NPAC SMS database has not been provided by third party hardware and software vendors.<sup>52</sup> In the *First CIC Waiver Order*, the Chief determined that where one vendor notified a LEC that it would not provide the software upgrades necessary to implement four-digit CIC capability, forcing the LEC to select, purchase and deploy a new switch, and where other LECs were unable to obtain the product necessary to upgrade its switches, in one instance because the manufacturer was "overwhelmed with upgrade requests," the affected LECs had "demonstrated that the product needed to accomplish the upgrade to their individual networks is not readily available from switch manufacturers, which has delayed their ability to meet the January 1, 1998 conversion deadline."<sup>53</sup> In the *Second CIC Waiver Order* the Chief concluded that where LECs received the equipment necessary to upgrade to four-digit CICs, but where the equipment manufacturer is overwhelmed with upgrade requests, installation would be delayed and the product need to accomplish the upgrade to individual networks is "effectively unavailable."<sup>54</sup> By any standard, the complete absence of the keystone

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<sup>51</sup> *First CIC Waiver Order* at ¶ 15; *accord Second CIC Waiver Order* at ¶ 15; *Third CIC Waiver Order* at ¶ 28; *Fourth CIC Waiver Order* at ¶ 18; *MoKan CIC Waiver Order* at ¶ 5.

<sup>52</sup> See LLC Letter, *passim*.

<sup>53</sup> *First CIC Waiver Order* at ¶ 17.

<sup>54</sup> *Second CIC Waiver Order* at ¶ 17.

to the Commission's LNP architecture, the regional NPAC SMS database, due to the inability of the LNPA to provide the database to all affected LECs within the Southeast region, constitutes a conclusive demonstration that the product needed to accomplish number portability is neither "readily" nor "effectively" available.<sup>55</sup>

Moreover, even if the new LNPA delivers an NPAC SMS database for the Southeast region on May 11, 1998, such product availability does not mean that the database will be effectively available to BellSouth. While the *First CIC Waiver Order* was granted to LECs who demonstrated the absolute unavailability of a hardware or software product, subsequent Bureau Orders articulated the principle that special circumstances may render an otherwise available product as "effectively unavailable."<sup>56</sup> These circumstances include "unanticipated engineering complexities,"<sup>57</sup> "additional costs,"<sup>58</sup> and "malfunction risks."<sup>59</sup> As detailed above, and in the attached affidavit of Douglas W. McDougal, as a result of the "unanticipated engineering complexities" presented by the 11th hour change in NPAC SMS vendors and NPAC specifications, BellSouth will have to undertake an extraordinary internal operational system incremental work effort in order to upgrade the operational systems currently designed to the

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<sup>55</sup> See also *Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation Petitions Pertaining to Originating Line Screening Services*, CC Docket No. 91-35; CCB/CPD File Nos. 96-18, 96-25, 96-32, (December 7, 1996), at ¶ 7; CCB/CPD File No. 96-18, (July 31, 1997) at ¶¶ 5, 7 (vendor delays, including system/software problems identified during on-line testing, constitute good cause to support an extension of time).

<sup>56</sup> *Id.*

<sup>57</sup> *Third CIC Waiver Order* at ¶ 30.

<sup>58</sup> *Third CIC Waiver Order* at ¶ 30; *Fourth CIC Waiver Order* at ¶ 19; *MoKan CIC Waiver Order* at ¶ 7.

<sup>59</sup> *MoKun CIC Waiver Order* at ¶ 7.

Perot Systems NPAC specifications to the Lockheed Martin NPAC SMS. McDougal Affidavit at ¶¶ 5, 6. This thirty-five week work effort, already underway, is absolutely necessary to prevent "malfunction risks," McDougal Affidavit at ¶ 7, and may extend beyond the actual delivery of the new Lockheed Martin NPAC SMS. Until BellSouth's operational systems, most importantly the LNP Gateway and the BellSouth AIN SMS, are upgraded to conform with the Lockheed NPAC SMS, any such NPAC SMS actually delivered will not be effectively available to BellSouth.<sup>60</sup>

Having established that, notwithstanding its own diligence in implementing LNP within its own network according to the Commission's current schedule, BellSouth cannot timely implement number portability in the Southeast Region because of both the current unavailability of the regional NPAC SMS database promised by the former LNPA and the projected future availability of a regional NPAC SMS provided by the new LNPA built to different specifications,<sup>61</sup> and having met the procedural burden established by the Commission for Requests for Extension of Time under Section 52.23(e) of its rules, BellSouth has demonstrated the requisite good cause to justify both an extension of time to implement and a waiver of the Commission's implementation schedule. Additional special circumstances further warrant the grant of the instant petition. The relief requested by BellSouth is specific to BellSouth and is limited to BellSouth LEC, ALEC and CLEC operations within the Southeast NPAC Region. It does not affect any other LECs' obligations in any other NPAC Region. The hardship imposed

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<sup>60</sup> *Third CIC Waiver Order* at ¶ 30; *Fourth CIC Waiver Order* at ¶ 19; *MoKan CIC Waiver Order* at ¶ 7.

<sup>61</sup> *See CIC Waiver Orders, passim.*

by enforcement of the current rule is straightforward: absent relief, it is simply impossible, let alone technically feasible, for BellSouth to comply with the Commission's current implementation schedule in light of the complete lack of a Region 4 NPAC SMS database.

BellSouth has also demonstrated good cause to extend the implementation schedule on a phased interval basis for a period of three months. Overall, BellSouth's proposal reduces the Commission's original LNP implementation schedule by 275 days. Specifically, BellSouth proposes to reduce the 182 day implementation interval for Phase I MSAs by 75% to 45 days,<sup>62</sup> reduce the 135 day implementation interval for Phase II MSAs by 65% to 47 days,<sup>63</sup> and reduce the current 91, 92 and 92 day implementation intervals for Phase III,<sup>64</sup> Phase IV,<sup>65</sup> and Phase V<sup>66</sup> MSAs, respectively, by over by 66% to 30 days. This will allow for completion of Phase V MSAs by March 31, 1999, a mere 90 day extension of the original implementation schedule set by this Commission in 1996. In light of the seven month delay in delivery of a commercially viable NPAC SMS database, the amount of upfront engineering and software change work that must be performed in the BellSouth network in order to accommodate the transition to the new LNPA, BellSouth's commitment to reduce the overall implementation interval from 457 days to 182 days (coincidentally, the length of the Commission's original Phase I implementation

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<sup>62</sup> Atlanta is the only Phase I MSA in the Southeast Region.

<sup>63</sup> Miami, Fort Lauderdale, Orlando and Tampa are the Phase II MSAs in the Southeast Region.

<sup>64</sup> New Orleans, Charlotte, Greensboro and Nashville are the Phase III MSAs in the Southeast Region.

<sup>65</sup> Memphis, Louisville, Jacksonville, Raleigh, West Palm Beach and Greenville are the Phase IV MSAs in the Southeast Region.

<sup>66</sup> Birmingham, Knoxville, Baton Rouge, Charleston, Mobile and Columbia are the Phase V MSAs in the Southeast Region.

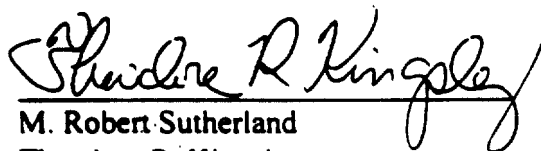
interval), the fact that the Southeast Region contains more MSAs than any other region affected by the original LNPA's failure to deliver an NPAC SMS database, and the Bureau's delegated authority to grant an extension of the implementation schedule for a period of nine months, the requested extension of three months is patently reasonable.

### CONCLUSION

The Chief, Common Carrier, should find that BellSouth's Request For Extension of Time complies fully with the Commission's requirements therefor and, good cause being shown, grant an extension of the Commission's LNP implementation schedule in the Southeast Region. The requirements of 47 C.F.R. § 52.23(c) should be waived until completion of Phase V LNP implementation in the Southeast Region.

Respectfully submitted,

BELLSOUTH CORPORATION

A handwritten signature in cursive script, reading "Theodore R. Kingsley", is written over a horizontal line.

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Theodore R. Kingsley

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Date: March 2, 1998

## **EXHIBIT A**

Letter from Richard Scheer, Chair, West Coast Portability Services, LLC to A. Richard Metzger, Chief, Common Carrier Bureau (January 23, 1998).



## **EXHIBIT A**

Letter from Richard Scheer, Chair, West Coast Portability Services, LLC to A. Richard Metzger, Chief, Common Carrier Bureau (January 23, 1998).